

## REMARKS

This Response is made in furtherance of the Office Action mailed March 25, 2004.

**1. Statement of the Case and Status of the Claims.**

The present invention provides a novel electrode active material wherein the positive electrode comprises active material particles having an inner region and an outer region, wherein the inner region comprises a cubic spinel lithiated manganese oxide, and the outer region is enriched in  $Mn^{+4}$  relative to the inner region.

Claims 1 - 44 are currently pending in the present Application. Upon entry of the present Response, Claims 1 - 44 will be cancelled, and new Claims 45 - 69 will be pending. Care has been taken in present Response to ensure that no new matter has been added. Support for the new Claims can be found in the specification as filed.

**2. The Restriction Requirement**

In the Office Action, a restriction requirement was issued requiring Applicants to elect for prosecution on the merits one of five allegedly patentably distinct inventions. These inventions are defined as follows.

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|-----------|---|
| Group I.  | Claims 1-5, drawn to a composition.   |
| Group II. | Claims 4-15, drawn to a product-by-process of making a composition.   |
| Group III | Claims 16-25, drawn to a treated active material.   |
| Group IV  | Claims 26-38, wherein independent Claim 26 is drawn to an electrode having an active material, and independent Claim 30 is drawn to an electrode having an active material prepared by a specified process. |
| Group V   | Claims 39-44, drawn to a battery.   |

Applicants hereby elect the invention of Group V (Claims 39-44) for prosecution on the merits, without traverse. Applicants have cancelled all Claims directed to the remaining four Groups. Applicants have also cancelled Claims 39-44, and have merged the subject matter of former independent Claim 39 into new Claim 45.

Should anything further be required, the Examiner is respectfully requested to telephone the undersigned at 702-558-1071.

Respectfully submitted,

Dated: April 7, 2004  
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By:

A handwritten signature in black ink, appearing to be 'MR', is written over a horizontal line.

Michael Ross  
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